

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ SEPT 8 2005 ★

JUDGMENT INCLUDING
SENTENCE

VS.

NO.: CR-04-127

USM# none

JOHN DAGOSTINO

BROOKLYN OFFICE

Taryn A. Merkl
Assistant United States Attorney

Fred Guerino
Court Reporter

Mildred M. Whalen
Defendant's Attorney

The defendant John Dagostino having pled guilty to count one (1) of an information accordingly, the defendant is ADJUDGED guilty of such Count(s), which involve the following offenses:

TITLE AND SECTION
18 U.S.C. 2252A(a)(5)(B) and
2252A(b)(2)

NATURE AND OFFENSE
Possession of child pornography
transported in interstate commerce

COUNT NUMBERS
1

The defendant is sentenced as provided in pages 2 through 6 of the Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1988.

 The defendant is advised of his/her right to appeal within ten (10) days.

 The defendant has been found not guilty on count(s) and discharged as to such count(s)

 X **Open counts are dismissed on the motion of the United States.**

 The mandatory special assessment is included in the portion of Judgment that imposes a fine.

 X **It is ordered that the defendant shall pay to the United States a special assessment of \$100.00 which shall be due immediately.**

It is further **ORDERED** that the defendant shall notify the United States Attorney for this District within 30 days of any change of residence or mailing address until all fines, restitution, costs and special assessments imposed by this Judgment are fully paid.

June 28, 2005

Date of Imposition of sentence

s/David G. Trager

DAVID G. TRAGER, U.S.D.J.

Date of signature

A TRUE COPY ATTEST

DEPUTY CLERK

DEFENDANT: **John Dagostino**
CASE NUMBER: **CR-04-127**

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IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of: **None**

___ The defendant is remanded to the custody of the United States Marshal.

___ The defendant shall surrender to the United States Marshal for this District.

___ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

___ -12:00 noon._____
- As notified by the United States Marshal.
- As notified by the Probation Office.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____ with a certified copy of this Judgment.

United States Marshal

By: _____

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SUPERVISED RELEASE

Upon release from Imprisonment, the defendant shall be on supervised release for a term of _____

While on supervised release, the defendant shall not commit another Federal, State, or Local crime and shall comply with the standard conditions that have been adopted by this Court (Seaforth on the following page).

The defendant is prohibited from possessing a firearm.

The defendant shall not illegally possess a controlled substance.

If this Judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

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PROBATION

The defendant is hereby placed on probation for a term of Five (5) years

The defendant shall not commit another Federal, State or Local crime.

The defendant shall not unlawfully possess a controlled substance.

For offenses committed on or after September 13, 1998:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

 The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

 The defendant shall not possess a firearm as defined in 18 U.S.C. Sect. 921.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the schedule of payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth in the "Standard Conditions of Supervision" sheet.

The defendant shall comply with the following additional conditions

- The defendant shall participate in a mental/sexual health program as directed by probation.
- The defendant shall participate in polygraph examination to obtain information necessary for risk management and correctional treatment as proved by the probation department.
- The defendant is not to use a computer to accept porn free websites or groupings which promote sexual abuse of children.
- The defendant shall contribute to the cost of monitoring devices.
- The defendant shall not associate with any children under the age of 18, unless a responsible adult is present and he has prior approval from the probation department. However, this condition may be modified with respect to his own children, after consultation between probation and his mental health treaters.
- The defendant shall notify the probation department if he establishes a significant romantic relationship with any adult, and he shall then inform the other party of prior criminal history concerning sexual abuse.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation or supervised release pursuant to this Judgment:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 8) The defendant shall support his or her dependents and meet other family responsibilities;
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons:
- 6) The defendant shall notify the probation officer within 10 days prior to any change in residence or employment;
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a Physician;
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
- 12) The defendant shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the court;
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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CRIMINAL MONETARY PENALTIES

<u>COUNT</u>	<u>FINE</u>	<u>RESTITUTION</u>
1	None	None.

RESTITUTION

____ The determination of restitution is deferred in a case brought under Chapters 109A, 110, 110A, and 113A of the Title 18 for offenses committed on or after 9/13/1998, until _____. an amended judgment in a Criminal case will be entered after such determination.

____ The defendant shall make restitution to the following payees in the amounts listed below.
-To The Clerk of the Court

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

TOTALS: _____

Findings for the total amount of losses are required under Chapters 109A, 110, 110A, 113A of the Title 18 for offenses committed on or after September 13, 1998.